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Paper No. 16

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DEC 01 2003

In re Application of
Mary Romans
Application No. 09/800,870
Filed: March 7, 2001
Title: NON-TRAUMATIC MODEL FOR
NEUROGENIC PAIN

OFFICE OF PETITIONS

DECISION ON
PETITION

This is in response to the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)," filed October 9, 2003 in the above-identified application. The petition is properly considered under 37 CFR 1.137(b)¹. This petition is considered in light of the payment of the petition fee by authorization to charge a credit card filed November 26, 2003.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely reply to the non-final Office action mailed December 2, 2002. This restriction requirement set forth a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply was filed within this period and no extensions of time under the provisions of 37 CFR § 1.136(a) were obtained. A late reply was received by facsimile transmission on July 2, 2003². Accordingly, the above-identified application became abandoned on March 3, 2003. A Notice of Abandonment was mailed on July 16, 2003.

By decision mailed November 24, 2003, the petition under § 1.137(b) was dismissed without consideration on the merits for failure to submit the petition fee. On November 26, 2003, petitioner submitted authorization to charge her credit card \$665 for payment of the petition fee set forth in 37 CFR 1.17(m).

Petitioner maintains that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional. Reply required for revival

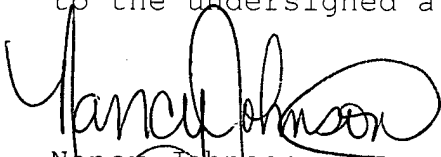
¹ Pro se applicant used form PTO/SB/61, which is for filing petitions to revive based on unavoidable delay. However, petitioner repeatedly states on petition that the delay is unintentional, does not state that they are providing an explanation to show unavoidable delay, and purports to include the fee for consideration under 37 CFR 1.137(b).

² A request for a four month extension of time was filed on June 30, 2003. However, no such extension was permissible. The Office action set a shortened statutory period for reply of 3 months, with a maximum period of extension to 6 months, the statutory period. Accordingly, extensions for response could only be requested for up to 3 months (up to June 2, 2003).

of this application was previously received on July 2, 2003 (dated July 1, 2003). Petitioner has now met all of the requirements for a grantable petition under § 1.137(b).

The application file is being forwarded to Technology Center 1632 for consideration of the amendment filed July 2, 2003.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-0309.



Nancy Johnson
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Office of Petitions